IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.R.UDAYABHANU

WEDNESDAY, THE 4TH JULY 2007 / 13TH ASHADHA 1929

CRL.A.No. 849 of 1999()

CC.759/1998 of CHIEF JUDL.MAGISTRATE, ERNAKULAM

.....

APPELLANT: COMPLAINANT

M.A.MOHAMMED BABU MOOPAN
S/O.M.K.AHMADKUTTY MOOPAN
36/1507-A, SEBASTIAN ROAD, KALOOR
REPRESENTED BY HIS POWER OF ATTORNEY HOLDER,
MR. HASSAN BAVA.

BY ADV. SRI.BABU PAUL

RESPONDENTS: ACCUSED

---

1. STATE OF KERALA REPRESENTED BY THE PUBLIC PROSECUTOR
   HIGH COURT OF KERALA, ERNAKULAM.

2. P.HARIKRISHNAN, PROPRIETOR
   M/S. METRO FINANCE CONSULTANTS
   15, NARASIHMAPURAM STREET, IIIRD FLOOR
   ANNASALAI, MADRAS.

BY PUBLIC PROSECUTOR SRI.C.K.SURESH

THIS CRIMINAL APPEAL HAVING BEEN FINALLY HEARD
ON 04/07/2007, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:

K.R.UDAYABHANU, J

Crl.A.No.849 of 1999

Dated this the 4th day of July, 2007

JUDGMENT

The appellant is the complainant who had initiated proceedings under Section 138 of the Negotiable Instruments Act. The accused stands acquitted under Section 256(1) of Crl.P.C. as the complainant was absent.

2. It is submitted that the lapse was on account of the wrong noting of the posting date. The order of the court below is set aside. The court below is directed to permit the appellant to further proceed with the matter and dispose of the case on merits. The court below shall issue fresh summons to the accused. The appellant shall appear before the court below on 3.8.2007.

The appeal is allowed.

K.R.UDAYABHANU,
JUDGE

csl